D.B. CIVIL SPECIAL APPEAL (w) NO.805/2006
(M/s Packers India Vs. State & Ors.)

Date of order : 21.11.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Dinesh Mehta, for the petitioner.

Heard learned counsel for the appellant.

It is pointed out by the learned counsel for the appellant that exemption certificate was issued in his favour under the Rajasthan Sales Tax Exemption Scheme and was cancelled at the recommendation of the Commercial Taxes Officer concerned by the District Level Screening Committee, which has granted exemption at the initial stage. The appeal against the order cancelling the exemption certificate is pending before the Rajasthan Tax Board. Since the exemption certificate was cancelled, the Assessing Officer was bound to have assume that the assessee is not entitled to exemption since inception and was bound to pass an order withdrawing the exemption already granted to the appellant for all these years. It is in the aforesaid circumstances, the appellant has approached this Court for setting aside the proceedings before the assessing officer and restraining him from withdrawing the exemption until the decision of the appeal against the

cancellation order.

The learned Single Judge has disposed of the writ petition by directing the Rajasthan Tax Board to decide the appeal expeditiously.

This appeal against the judgment of the learned Single Judge is outcome of the apprehension entertained by the petitioner-appellant that however the Rajasthan Tax Board may decide the appeal within intervening period, the assessing officer who had passed the assessment order may recover the said demand affecting the petitioner's interest beyond repairs.

The ends of the justice would be met if this appeal is disposed of with the direction that until the appeal against the order cancelling the exemption certificate of the petitioner is decided by the Rajasthan Tax Board, the demand created by the assessing officer on account of withdrawal of the exemption certification shall remain stayed. Ordered accordingly.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

arun